2025 INSC 1447

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2025
ARISING OUT OF SLP (C) NO. 8998 OF 2023

M/S ANDHRA PRADESH POWER GENERATION CORPORATION LIMITED (APGENCO) ...APPELLANT(S)

VERSUS

M/S TECPRO SYSTEMS LIMITED & ORS. …RESPONDENT(S)

WITH

CIVIL APPEAL NO. OF 2025
ARISING OUT OF SLP (C) NO. 13200 OF 2023

J U D G M E N T

I. Introduction:

1. Leave granted.

2. These two civil appeals arise from an order passed by the High Court for the State of Telangana at Hyderabad[1] under Section 11(6) of the Arbitration and Conciliation Act, 1996[2] constituting an Arbitral Tribunal (AT) for resolution of dispute as per the arbitration clause 22.2 in General Conditions of Contract (GCC). The contest by the two appellants is on the

[1] In Arbitration Application No. 81 of 2019 dated 17.02.2023.
[2] Hereinafter, “Act, 1996”.

ground that first respondent, being one of the members of the Consortium, could not have invoked arbitration in its individual capacity. This is based on the simple plea that the arbitration agreement is only between the appellant APGENCO, the purchaser and the "Consortium". While considering an application under Section 11, we are of the opinion that the High Court was justified in constituting the AT on the basis of a *prima facie* test of arbitrability. We have further held that it is for the AT to examine the preliminary issue in detail by considering the contractual provisions and the surrounding evidence. We have thus upheld the order passed by the High Court constituting the AT.

II. Facts:

3. Facts that are necessary for disposal of these appeals are that the appellant APGENCO, floated a tender inviting bids from a Consortium of companies for an EPC contract pertaining to works for their Rayalseema Thermal Power Plant. The tender specifications incorporated the Instructions to Bidders (IB) and the General Conditions of Contract (GCC), comprising of dispute resolution through arbitration under Clause 22.2.

4. A Consortium comprising respondent nos. 1, 2 and 3 namely M/s Tecpro Systems Ltd., M/s VA Tech Wabag Ltd., and M/s Gammon India Ltd. was constituted on 17.08.2010 for exclusively participating in the

tender process, with Tecpro Systems Ltd., the first respondent designated as the Leader of the Consortium. The Consortium emerged successful, and a Letter of Intent (LOI) dated 30.10.2010 was issued to the Consortium through the first respondent, being the lead member. Thereafter, three Purchase Orders, dated 15.12.2010 were issued in favour of the Consortium and execution commenced, each member undertaking its respective scope of work.

5. During execution, first respondent encountered severe financial distress, resulting in project delays. Consequently, VA Tech, being jointly and severally liable as a consortium member, undertook first respondent's scope of work and was subsequently recognised as the Lead Member vide correspondence dated 04.04.2014, resulting in amendment of the Consortium Agreement. Billing continued to be raised in the name of first respondent for administrative purposes, while payments flowed directly to each member in agreed proportions. Later, the first respondent was admitted into Corporate Insolvency Resolution Process (CIRP) on 07.08.2017, followed thereafter by an order initiating liquidation.

6. After the first respondent ceased to be the lead member, the appellant, APGENCO issued a letter dated 04.10.2017 to first respondent that it was responsible for substantial delays in execution of the project.

In reply, first respondent denied the allegations and asserted that the appellant had committed various breaches, because of which the company suffered losses, amounting to approximately Rs. 1951.59 crores. By letter dated 11.12.2017 the first respondent demanded payment of the said amount and also indicated that, if the claim is disputed, the letter should be treated as a notice invoking the arbitration clause under the GCC. In its response, the appellant APGENCO, rejected these allegations and asserted counter claims predicated on losses alleged to have been suffered due to first respondent's non-performance. Gammon India Ltd. (respondent no. 3) also protested first respondent's unilateral communication, asserting that it lacked authority to act without the consent of other consortium members.

7. As the appellant did not release the claimed amount, first respondent issued another letter dated 03.04.2018, stating that disputes had clearly arisen between the parties. Through this communication, first respondent formally invoked the arbitration clause and nominated a former Judge of this Court as its nominee arbitrator, and called upon the appellant to appoint its arbitrator. Appellant neither responded to said notice nor has taken steps to constitute the AT. Aggrieved by this inaction, first respondent instituted proceedings under Section 11(6) before the High Court, and the appellant promptly objected to maintainability on the

ground that the first respondent as an individual member, cannot unilaterally invoke arbitration.

8. The High Court, however, allowed the Section 11(6) application and referred the disputes to arbitration. The said judgment is assailed in the present appeals.

III. Submissions:

9. In view of our conclusion that the grounds raised by the appellant and the respondent can and should be considered by the AT, it is necessary to note in detail each and every submissions made by appellant and the respondent. This is necessary to determine whether a submission is beyond the remit of the AT, or that, the question must be considered at the referral stage itself.

A. *Submissions on behalf of the Appellants:*

10. We have heard Mr. N. Venkataraman, learned A.S.G. appearing on behalf of appellant, APGENCO and Mr. Guru Krishnakumar, Senior Advocate on behalf of M/s. VA Tech Wabag Ltd., appellant in the connected civil appeal. The cumulative submissions on behalf of the appellants are as follows:

10.1 At the referral stage, Court exercising jurisdiction under Section 11 of the Act, 1996 is obliged to *prima facie* satisfy itself as to the existence of an arbitration agreement between the parties. *Prima facie* satisfaction necessarily includes an examination of the arbitration agreement and the parties to such arbitration agreement. Upon such examination, it would be evident that no arbitration agreement exists between APGENCO and first respondent.

10.2 The arbitration agreement contained in Clause 22.2 of GCC is enforceable against APGENCO by the "Contractor", that is, the Consortium, and not by any individual member. The term "Parties" in Clause 1.1.63 of the GCC is defined to mean the "Purchaser" or the "Contractor", and "Purchaser" is defined in Clause 2.1, as APGENCO and that "Contractor" is defined as "*the person whose tender has been accepted by the Purchaser and the legal successors in title to such person*". It is therefore argued that the expression "person" expressly includes the Consortium, and therefore it is only the Consortium, which is a party to the arbitration agreement. The definitions of "contractor", "bidder", "person" and "party", read conjointly, demonstrate that the contracting counterparty was the "Consortium" and not any individual constituent entity. Hence, first respondent, in its individual capacity, could not have approached the High Court for appointment of an arbitrator.

10.3 No arbitration agreement exists between the first respondent in its individual capacity, and APGENCO. The reliance placed by first respondent upon the arbitration clause contained in the GCC is misplaced. The GCC is a pre bid document. Upon acceptance of the bid by a consortium, the contractual relationship culminates into Purchase Orders. In fact, the three Purchase Orders contain identical jurisdictional clauses conferring exclusive jurisdiction upon civil courts at Hyderabad or Secunderabad, with no provision for arbitration as a dispute resolution mechanism. The Purchase Orders constitute the principal contracts governing the relationship between the purchaser on one hand and the Consortium, as a collective entity, on the other.

10.4 Relying on the judgments of the Delhi High Court in *Consulting Engineers Group Ltd. v. National Highway Authority of India (NHAI)*[3] and the Bombay High Court in *MSEDCL v. Godrej and Boyce Manufacturing Company Ltd.*[4], it is urged that an individual consortium member lacks the competence to invoke arbitration in the absence of authority from the other members of the consortium.

[3] 2022 SCC OnLine Del 3253.
[4] 2019 SCC OnLine Bom 3920.

10.5 The Group of Companies doctrine is wholly inapplicable as per the judgment of this Court in *Cox and Kings Ltd. v. SAP India Pvt. Ltd*.[5], which clarifies that mutual intention is indispensable and cannot be implied so as to override an express contractual structure, which envisages action only through the Consortium and excludes unilateral action by individual members.

10.6 First respondent lost Consortium leadership in 2014 due to non-performance; VA Tech Wabag took over and completed the work. First respondent later entered CIRP in 2017 but still issued a unilateral arbitration notice, contrary to the stand of the other Consortium members, who oppose arbitration against APGENCO. Claims relating to the Consortium cannot be raised unilaterally by a defaulting and insolvent member.

10.7 High Court failed to appreciate the distinction, as affirmed in *ASF Buildtech P. Ltd. v. Shapoorji Pallonji & Co. P. Ltd.*[6], between the "existence" of an arbitration agreement and the "capacity to invoke" such agreement. While an arbitration agreement undoubtedly exists, only the

[5] (2024) 4 SCC 1.
[6] (2025) 9 SCC 76.

Consortium, and not an individual member, has the contractual capacity to invoke it.

10.8 Claim of first respondent to be a “legal successor” of the Consortium, and therefore falling within the definition of Contractor as per the GCC is entirely misconceived. The term successors in title envisages one to whom ownership/title is transferred, and would not be applicable to a Consortium such as the present one.

10.9 The attempt of first respondent to invoke arbitration independently, despite default, insolvency and cessation of leadership, constitutes a misuse of the arbitral process and is contrary to the contractual framework and commercial common sense. Reliance is also specifically placed upon the order dated 07.11.2023 passed by Hon’ble Justice M. B. Lokur in arbitration proceedings relating to Telangana State Power Generation Corporation Limited (TSPGCL), wherein identical claims raised by first respondent were rejected on the ground that it could not act independently of the consortium.

B. *Submissions on behalf of first respondent:*

11. Mr. Anirudh Krishnan, Advocate on behalf of the first respondent, on the other hand submits the following:

11.1 Objections raised by appellants are fundamentally misconceived because the contractual framework, properly construed, recognises that first respondent had both the right and the authority to invoke arbitration. The tender floated by APGENCO envisaged participation by single bidders as well as consortiums, and that the Consortium of respondent nos. 1 to 3 was duly constituted in accordance with the tender terms. The Purchase Orders issued pursuant to the Letter of Intent explicitly incorporated the Tender Specification, which in turn incorporated the GCC including Clause 22.2 which contains the operative arbitration agreement.

11.2 In view of the principles laid down in *M.R. Engineers and Contractors Pvt. Ltd. v. Som Datt Builders Ltd*.[7], *Inox Wind Ltd. v. Thermocables Ltd*.[8], and *NBCC (India) Ltd. v. Zillion Infraprojects Pvt. Ltd.*[9] , the arbitration clause stands validly incorporated by reference into the Purchase Orders. The jurisdiction clause contained in the Purchase Orders, which confers jurisdiction on courts at Hyderabad, is not inconsistent with the GCC, thereby indicating that Hyderabad was intended to be the juridical seat of arbitration.

[7] (2009) 7 SCC 696.
[8] (2018) 2 SCC 519.
[9] 2024 SCC OnLine SC 323.

11.3 Identical issues were examined in proceedings arising out of the same project with TSPGCL, the successor of the appellant in Telangana after bifurcation of the State, where this Court appointed a former judge of this Court as arbitrator after rejecting identical objections to first respondent's capacity to invoke arbitration. The objections now raised are substantially the same and do not warrant reconsideration at the Section 11 stage; the AT alone is competent to address them.

11.4 The appellant's assumption that "Contractor" refers only to the Consortium acting jointly misconstrues the definition. Clause 2.1 of Invitation to Bid defines 'Contractor' in two facets. First, the 'Person' whose Tender has been accepted. Second the legal successors in title of such person. The latter applies when the Consortium ceases to exist. The Consortium Agreement dated 17.08.2010 at Clause 16(d) states that it ceases to operate on a party becoming insolvent. This provision is carried through in the Supplementary Agreements. Therefore, the expiry of the Consortium Agreement will result in each party being represented by themselves or their legal successors.

11.5 Even if the Consortium were to be treated as continuing, it has no independent legal personality under Indian law unless expressly constituted as such. Reliance is placed on *New Horizons Ltd. v. Union of*

India[10], *Dulichand Laxminarayan Firm v. Commissioner of Income Tax, Nagpur*[11], and *Ramanlal Bhailal Patel v. State of Gujarat*[12], which affirm that a consortium or joint venture, unless incorporated, is neither a juristic person nor a separate legal entity distinct from its members. Clause 4 of the Consortium Agreement expressly states that the Consortium is not a separate legal entity. Hence, the appellant cannot assert that only the Consortium, as an independent juridical unit, could invoke arbitration.

11.6 The Consortium was a bidding arrangement; members retained separate scopes of work, distinct performance obligations, and independent payment streams. Payments were made directly to each member. The division of work under the Consortium Agreement and the amended Purchase Orders demonstrates that each member held an identifiable, severable, and independently enforceable contractual interest.

11.7 The existence of counterclaims or potential liabilities against first respondent is irrelevant for the purpose of determining its right to invoke arbitration. Counterclaims may be raised in the arbitration and adjudicated together. Appellant, VA Tech has no locus to oppose first respondent's

[10] (1995) 1 SCC 478.
[11] (1956) 1 SCC 269.
[12] (2008) 5 SCC 449.

independent invocation when its claims arise from its allocated scope of work and relate to moneys allegedly due to it.

11.8 The appellant's objections concern the entitlement to invoke arbitration, not the existence of the arbitration agreement. Such issues fall squarely within the AT's jurisdiction under Section 16.

IV. Analysis and Reasoning:

12. The reason for referring to the submissions of the appellants as well as the respondent in detail is only to flag and highlight certain preliminary and jurisdictional questions that will fall for consideration before the AT in the event we hold that the referral court need not examine these questions in view of Sections 11(6-A) and 16 of the Act, 1996.

13. We must, at the outset, address an important submission advanced on behalf of the appellants, namely, that in the present case there exists no arbitration agreement insofar as the individual constituent of a consortium is concerned. This submission is founded upon certain decisions of the Delhi High Court[13] and the Bombay High Court[14] which have taken the view that a member of a consortium, in its individual capacity, cannot invoke the jurisdiction of the Court under Section 11 of

[13] 2022 SCC OnLine Del 3253, Consulting Engineers Group Ltd. v. National Highway Authority of India (NHAI).
[14] 2019 SCC OnLine Bom 3920, MSEDCL v. Godrej and Boyce Manufacturing Company Ltd.

the Arbitration and Conciliation Act, 1996. The appellants contend that in the absence of a direct arbitration agreement between the employer and the individual consortium member, the very assumption of jurisdiction by the referral court would be impermissible.

14. In our considered view, these objections must be answered in the broader perspective of the nature and scope of the jurisdiction exercised by a referral court under Section 11 of the Act. With the introduction of the *statutory restraint* under Section 11(6A), the Legislature has consciously confined the domain of judicial scrutiny to the mere "existence of an arbitration agreement". This legislative design is further reinforced by the express empowerment of the AT under Section 16 to rule on; (i) its own jurisdiction, (ii) objections with respect to the very existence of the arbitration agreement, and also, (iii) objections relating to the validity of such an agreement. The statutory scheme thus envisages a clear demarcation between the limited threshold scrutiny at the referral stage on the one hand and the substantive jurisdictional adjudication to be undertaken by the AT on the other.

15. The legislative policy under the Act 1996 strongly favours minimal judicial intervention at the pre arbitral stage. A long line of precedents,

such as *Duro Felguera SA v Gangavaram Port Ltd*[15], the Constitution Bench decision in *Interplay Between Arbitration Agreements under Arbitration and Conciliation Act, 1996 and Stamp Act, 1899, In Re*[16], and *SBI General Insurance Co Ltd v Krish Spinning Mills Pvt Ltd*[17] have authoritatively settled that the enquiry under Section 11 is confined to a *prima facie* determination of the existence of an arbitration agreement and no further. The referral court is required to undertake only a *prima facie* determination of the existence of an arbitration agreement[18], and refrain from entering into contentious factual or legal issues related to authority, capacity, arbitrability, maintainability, or merits of claims.

16. It is certainly a matter of *institutional discipline* for the referral courts to enable "parties" to identify and exercise alternative remedies, particularly that of arbitration, with clarity and consistency. The question whether a member of a consortium can itself invoke Section 11 of the Act, 1996 is not one that admits of a monolithic or a uniform answer. Answer to that question will necessarily depend on enquiry into the terms of the principal contract, as well as the Consortium Agreement. The specific terms of the Consortium Agreement, parties to that agreement, and the

[15] (2017) 9 SCC 729.
[16] (2024) 6 SCC 1.
[17] (2024) 12 SCC 1.
[18] Goqii Technologies (P) Ltd. v. Sokrati Technologies (P) Ltd., (2025) 2 SCC 192.

nature of the rights and mutual obligations that the agreement creates will have to be examined in detail. Reference court will, however, confine its enquiry only to a *prima facie* satisfaction as to whether a member of a consortium qualifies as a "party" to the arbitration agreement. This *prima facie* satisfaction is sufficient for the referral court to constitute and refer the dispute to the AT. Thereafter, it is for the AT to undertake the detailed enquiry as to whether a member of the consortium is in fact a veritable party to the arbitration agreement or not. This is exactly the limited enquiry permitted and prescribed in *Cox & Kings (supra)*, the relevant portion of which is as under:

> "***126.*** *Evaluating the involvement of the non-signatory party in the negotiation, performance, or termination of a contract is an important factor for a number of reasons. First, by being actively involved in the performance of a contract, a non-signatory may create an appearance that it is a veritable party to the contract containing the arbitration agreement; second, the conduct of the non-signatory may be in harmony with the conduct of the other members of the group, leading the other party to legitimately believe that the non-signatory was a veritable party to the contract; and third, the other party has legitimate reasons to rely on the appearance created by the non-signatory party so as to bind it to the arbitration agreement.*
>
> ***169.*** *In case of joinder of non-signatory parties to an arbitration agreement, the following two scenarios will prominently emerge : first, where a signatory party to an arbitration agreement seeks joinder of a non-signatory party to the arbitration agreement; and second, where a non-signatory party itself seeks invocation of an arbitration agreement. In both the scenarios, the referral court will be required to prima facie rule on the existence of the arbitration agreement and whether the non-signatory is a veritable party to the arbitration agreement. In view of the complexity of such a determination, the referral court should leave it for the Arbitral Tribunal to decide whether the non-signatory party is indeed a party to the arbitration agreement on the basis of the factual evidence and application of legal doctrine. The Tribunal can delve into the factual, circumstantial, and legal*

aspects of the matter to decide whether its jurisdiction extends to the non-signatory party. In the process, the Tribunal should comply with the requirements of principles of natural justice such as giving opportunity to the non-signatory to raise objections with regard to the jurisdiction of the Arbitral Tribunal. This interpretation also gives true effect to the doctrine of competence-competence by leaving the issue of determination of true parties to an arbitration agreement to be decided by the Arbitral Tribunal under Section 16.

170.12. *At the referral stage, the referral court should leave it for the Arbitral Tribunal to decide whether the non-signatory is bound by the arbitration agreement*."

(emphasis supplied)

17. Beyond the *prima facie* enquiry, it should be the discipline of the referral court to refrain from undertaking a detailed enquiry on basis of evidence to arrive at a finding of fact in the nature of a 'proof'. The scope of such an enquiry, by virtue of Section 11(6-A) is very well articulated in the decision of this Court in *Interplay Between Arbitration Agreements under Arbitration and Conciliation Act, 1996 and Stamp Act, 1899, In Re*[19] wherein this Court observed:

"***165.*** *The legislature confined the scope of reference under Section 11(6-A) to the examination of the existence of an arbitration agreement. The use of the term "examination" in itself connotes that the scope of the power is limited to a prima facie determination. Since the Arbitration Act is a self-contained code, the requirement of "existence" of an arbitration agreement draws effect from Section 7 of the Arbitration Act. In Duro Felguera [Duro Felguera, S.A. v. Gangavaram Port Ltd., (2017) 9 SCC 729 : (2017) 4 SCC (Civ) 764], this Court held that the Referral Courts only need to consider one aspect to determine the existence of an arbitration agreement — whether the underlying contract contains an arbitration agreement which provides for arbitration pertaining to the disputes which have arisen between the parties to the agreement. Therefore, the scope of examination under Section 11(6-A) should be confined to the existence of an arbitration agreement on the basis of Section 7. Similarly, the validity of an arbitration agreement, in view of Section 7,*

[19] (2024) 6 SCC 1.

should be restricted to the requirement of formal validity such as the requirement that the agreement be in writing. This interpretation also gives true effect to the doctrine of competence-competence by leaving the issue of substantive existence and validity of an arbitration agreement to be decided by Arbitral Tribunal under Section 16. We accordingly clarify the position of law laid down in Vidya Drolia [Vidya Drolia v. Durga Trading Corpn., (2021) 2 SCC 1 : (2021) 1 SCC (Civ) 549] in the context of Section 8 and Section 11 of the Arbitration Act.

166. *The burden of proving the existence of arbitration agreement generally lies on the party seeking to rely on such agreement. In jurisdictions such as India, which accept the doctrine of competence-competence, only prima facie proof of the existence of an arbitration agreement must be adduced before the Referral Court. The Referral Court is not the appropriate forum to conduct a mini-trial by allowing the parties to adduce the evidence in regard to the existence or validity of an arbitration agreement. The determination of the existence and validity of an arbitration agreement on the basis of evidence ought to be left to the Arbitral Tribunal. This position of law can also be gauged from the plain language of the statute.*

167. *Section 11(6-A) uses the expression "examination of the existence of an arbitration agreement". The purport of using the word "examination" connotes that the legislature intends that the Referral Court has to inspect or scrutinise the dealings between the parties for the existence of an arbitration agreement. Moreover, the expression "examination" does not connote or imply a laborious or contested inquiry. [P. Ramanatha Aiyar, The Law Lexicon (2nd Edn., 1997) 666.] On the other hand, Section 16 provides that the Arbitral Tribunal can "rule" on its jurisdiction, including the existence and validity of an arbitration agreement. A "ruling" connotes adjudication of disputes after admitting evidence from the parties. Therefore, it is evident that the Referral Court is only required to examine the existence of arbitration agreements, whereas the Arbitral Tribunal ought to rule on its jurisdiction, including the issues pertaining to the existence and validity of an arbitration agreement. A similar view was adopted by this Court in Shin-Etsu Chemical Co. Ltd. v. Aksh Optifibre Ltd. (2005) 7 SCC 234.*"

18. Following this Court's mandate in the above decision, this Court in *Managing Director Bihar State Food and Civil Supply Corporation Limited*

v. Sanjay Kumar[20] explaining the contemporary legal position of the referral court emphasised that:

> *"**27.** The curtains have fallen. Courts exercising jurisdictions under Section 11(6) and Section 8 must follow the mandate of sub-section (6A), as interpreted and mandated by the decisions of this Court and their scrutiny must be "confine(d) to the examination of the existence of the arbitration agreement"."*

19. Once the High Court was satisfied that an arbitration agreement *prima facie* existed, an aspect neither seriously disputed nor refutable at this stage, its decision to constitute the AT cannot be faulted. In the earlier part of our judgment, we have reproduced the detailed arguments of the appellants and respondents on the issue of maintainability only to draw a distinction between a *prima facie* consideration of such contentions for the purpose of Section 11 on the one hand and for a detailed examination by the AT. While we hold that there is certainly a *prima facie* case for referring the dispute to arbitration under Section 11, a detailed scrutiny on the basis of evidence must be left to AT. Whether first respondent has validly invoked arbitration individually, whether the Consortium continues to exist, whether consent of other Consortium partners was necessary, and whether claims are maintainable after commencement of liquidation, are all matters which may legitimately be raised, contested and determined before the AT under Section 16. Entertaining these questions here would

[20] 2025 SCC OnLine SC 1604: 2025 INSC 933.

amount to conducting a mini trial at the Section 11 stage, contrary to the settled principles of minimal judicial intervention and *kompetenz-kompetenz.*

20. Returning to facts of the present case, it is significant to note that with respect to the very same underlying contractual framework that was bifurcated after the formation of the States of Andhra Pradesh and Telangana, this Court[21] by its order dated 29.11.2021 constituted the AT and referred the dispute for detailed consideration, of all issues to an AT. The relevant portion of the reference order is as under;

> "*Without going into the question whether the reasoning which weighed with the High Court was correct or not, in our view, the ends of justice would be met if there be comprehensive arbitral proceedings before a sole Arbitrator which would encompass claims arising out of the agreement amongst members of Consortium consisting of (a) M/s Tecpro Systems Limited, (b) M/s Gammon India Ltd and (c) M/s VA Tech Wabag Ltd. and the claims arising pursuant to letter of Intent dated 13.10.2010.*
>
> *It is therefore directed that:*
>
> *(a) A sole arbitrator shall consider all the claims arising out of both the agreements.*
>
> *(b) Mr. Justice M. B. Lokur, former Judge of this court shall be the sole arbitrator.*
>
> *(c) M/s Telangana State Power Generation Corporation Limited, M/s Tecpro Systems Limited, M/s VA Tech Wabag Ltd and M/s Gammon Engineers & Contractors Pvt. Ltd. shall be parties to the arbitration.*
>
> *(d) Let a claim statement be filed by M/s Tecpro Systems Ltd. within 15 days from today before the learned Arbitrator.*

[21] In Civil Appeal Nos.7119 of 2021 and 7120 of 2021.

(e) M/s Telangana State Power Generation Corporation Ltd. and other members of the Consortium shall be entitled to put in their counter statement/response and/or raise fresh claim/counter claims, if any.

(f) The parties shall appear before the learned Arbitrator on such date as the learned Arbitrator may choose. A communication in that behalf shall be sent to the learned Arbitrator by the Registry of this Court immediately alongwith a copy of this order.

The afore-stated directions are in substitution of the directions issued by the High Court.

All the appeals are disposed of accordingly. No costs."

It is also an admitted fact that the AT thereafter examined the issue as to whether the applicant is a veritable party or not.

V. Conclusion:

21. Having considered the matter in detail, we are of the opinion that the High Court has not committed any error in constituting the AT in exercise of its powers under Sections 11(6) and 11(6-A) of the Act, 1996. The AT will consider all questions including preliminary objections relating to maintainability of the arbitration on their own merit.

22. Civil Appeals, arising out of order dated 17.02.2023 passed by the High Court are accordingly dismissed. No order as to costs.

……...J.
[PAMIDIGHANTAM SRI NARASIMHA]

……...J.
[ATUL S. CHANDURKAR]

NEW DELHI;
DECEMBER 17, 2025